

## **Assembly Bill No. 2588**

### **CHAPTER 1035**

An act to amend Section 655.5 of the Business and Professions Code, relating to clinical laboratory services.

[Approved by Governor September 27, 1996. Filed  
with Secretary of State September 29, 1996.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2588, Morrow. Clinical laboratory services.

Under existing law, the practices of chiropractic, clinical laboratory technology, dentistry, medicine, research psychoanalysis, speech pathology and audiology, optometry, occupational therapy, dietetics, physical therapy, nursing, vocational nursing, psychology, hearing aid dispensing, physician assisting, osteopathy, respiratory therapy, nursing home administration, pharmacy, psychiatric technology, veterinary medicine, acupuncture, marriage, family and child counseling, and social work are subject to licensure and regulation by the state.

Existing law prohibits any person licensed for one of those practices to charge, bill, or otherwise solicit payment from any patient, client, or customer, for any clinical laboratory service if the service was not actually rendered by that person or under his or her direct supervision, unless the patient, client, or customer is apprised at the first, and any subsequent, solicitation for payment of the name, address, and charges of the clinical laboratory performing the service.

The bill would provide that the requirement for disclosure would be satisfied if the required disclosure is made to a 3rd-party payer of the patient, client, or customer, unless the patient is responsible for submitting the bill to the 3rd-party payer.

Existing law provides that violation of those provisions is a public offense punishable upon a first conviction by imprisonment in the county jail of not more than one year, or by imprisonment in the state prison, or by a fine not exceeding \$10,000, or by both imprisonment and fine. Existing law provides that a 2nd or subsequent conviction is punishable by imprisonment in the state prison.

This bill would instead provide that a violation of these provisions by a physician and surgeon for a first offense would be subject to the exclusive remedy of reprimand by the Medical Board of California if the charge for a clinical laboratory service is less than the charge would have been if a clinical laboratory billed the patient, client, or customer directly for the service, and if the clinical laboratory charge

is less than the charge listed in the clinical laboratory's schedule of fees.

*The people of the State of California do enact as follows:*

SECTION 1. Section 655.5 of the Business and Professions Code is amended to read:

655.5. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division, or any clinical laboratory, or any health facility when billing for a clinical laboratory of the facility, to charge, bill, or otherwise solicit payment from any patient, client, or customer for any clinical laboratory service not actually rendered by the person or clinical laboratory or under his, her or its direct supervision unless the patient, client, or customer is apprised at the first time of the charge, billing, or solicitation of the name, address, and charges of the clinical laboratory performing the service. The first such written charge, bill, or other solicitation of payment shall separately set forth the name, address, and charges of the clinical laboratory concerned and shall clearly show whether or not the charge is included in the total of the account, bill, or charge. This subdivision shall be satisfied if the required disclosures are made to the third-party payer of the patient, client, or customer. If the patient is responsible for submitting the bill for the charges to the third-party payer, the bill provided to the patient for that purpose shall include the disclosures required by this section. This subdivision shall not apply to a clinical laboratory of a health facility or a health facility when billing for a clinical laboratory of the facility nor to a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges. For purposes of this subdivision, "health facility" has the same meaning as defined in Section 1250 of the Health and Safety Code.

(b) Commencing July 1, 1994, a clinical laboratory shall provide to each of its referring providers, upon request, a schedule of fees for services provided to patients of the referring provider. The schedule shall be provided within two working days after the clinical laboratory receives the request. For the purposes of this subdivision, a "referring provider" means any provider who has referred a patient to the clinical laboratory in the preceding six-month period. Commencing July 1, 1994, a clinical laboratory that provides a list of laboratory services to a referring provider or to a potential referring provider shall include a schedule of fees for the laboratory services listed.

(c) It is also unlawful for any person licensed under this division or under any initiative act referred to in this division to charge additional charges for any clinical laboratory service that is not



actually rendered by the licensee to the patient and itemized in the charge, bill, or other solicitation of payment. This section shall not be construed to prohibit any of the following:

(1) Any itemized charge for any service actually rendered to the patient by the licensee.

(2) Any summary charge for services actually rendered to a patient by a health facility, as defined in Section 1250 of the Health and Safety Code, or by a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges.

(d) This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if the services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

(e) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison.

(f) (1) Notwithstanding subdivision (e), a violation of this section by a physician and surgeon for a first offense shall be subject to the exclusive remedy of reprimand by the Medical Board of California if the transaction that is the subject of the violation involves a charge for a clinical laboratory service that is less than the charge would have been if the clinical laboratory providing the service billed a patient, client, or customer directly for the clinical laboratory service, and if that clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees pursuant to subdivision (b).

(2) Nothing in this subdivision shall be construed to permit a physician and surgeon to charge more than he or she was charged for the laboratory service by the clinical laboratory providing the service unless the additional charge is for service actually rendered by the physician and surgeon to the patient.

